

NATURAL RESOURCES COMMISSION

Meeting Minutes

June 18, 2008

Pursuant to the notice filed with the Town Clerk, the meeting of the Natural Resources Commission was held at 141 Keyes Road, Concord, MA at 7:00 p.m. on Wednesday, June 18, 2008. The following Commissioners were present: Alexander Easterday, Chair, Jamie Bemis, Steve Verrill, and George Lewis. Delia Kaye, Natural Resources Administrator, and Cynthia L. Gray, Natural Resources Administrative Assistant, were also present.

COMMISSION COMMENTS

Commission Comments is a new addition to the agenda items to allow Commissioners to raise items of interest. Steve Verrill mentioned the relevance of the flooding along the Mississippi River, with its breached levees, to floodplain issues in Concord.

CONTINUANCES:

BALULESCU – 10 Wood Street / NOI – Replacing an existing deck and constructing an addition to a single family dwelling and constructing a driveway in the 200-foot Riverfront Area of the Sudbury River and the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-970**

David Crossman of B & C Associates appeared with the applicant, Lano Balulescu. A Commission site visit was held last week to evaluate the proposed development and the wetland clearing in the 25-foot No Disturb Zone. The potential to restore the area to its original condition was addressed. The Commission acknowledged that the fill for the home, relocated from River Street in 1960, was greater than what should be reasonably expected from the Applicant. After discussion, the Commission agreed to focus solely on the clearing and fill conducted by the Applicant.

The Applicant will provide a plan to remove the wood chips and invasive species and replant with native species. The Applicant will also show a barrier at the 25-foot NDZ on the plan.

The Commission discussed the large amount of proposed impervious surface. To mitigate for this proposed impervious surface increase, the Commission requested that the Applicant provide revised plans showing a sloped driveway to a french drain, with gutters to direct roof runoff to the drain for recharge.

This hearing was continued to July 16, 2008.

STEPHENS – 48 Ayrshire Lane / NOI – Mitigation for extending a retaining wall into the 25-foot No Disturb Zone and after-the-fact landscaping improvements in the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-969.**

Brian Butler of Oxbow Associates appeared on behalf of the Applicant. Mr. Butler clarified that 5,000 beetles to control purple loosestrife will be released because Cornell recommends that if the release is past the time females are gravid, 5 times as many should be released.

The number of pre- and post-release monitoring plots will be increased from 3 to 5. There will be one pre-release monitoring event and then two seasons of post-release monitoring. Post-season monitoring will be conducted once in the summer and once in the fall. Alexander Easterday requested long-term monitoring for a period of three years under the Order of Conditions with the transfer of the 4th and 5th years to be taken over by a science class at the High School as a pilot project. Mr. Butler indicated that he would make contact with the Concord Carlisle High School to suggest the project. Mr. Butler will forward the adaptive field forms that will be used during the monitoring process to the Natural Resources Division.

This mitigation approach is unique because typically the Commission requires removal of unpermitted work and onsite mitigation. However, due to site constraints and disruptions expected to adjacent wetlands to remove the unauthorized wall extension, the Commission finds this mitigation is appropriate and will promote regeneration of native species.

Steve Verrill moved to close the hearing. George Lewis seconded. All so voted. George Lewis moved to issue a Standard Order of Conditions with Special Conditions 19-39. Steve Verrill seconded. All so voted.

NEW APPLICATIONS:

PALEOLOGOS / ANRAD – 800 Main Street – Confirmation of wetland resource area boundaries on the property, **DEP File #137-971**. This hearing was continued to July 16, 2008.

DEPARTMENT OF CONSERVATION AND RECREATION / NOI – Walden Pond – Rehabilitating the east bank of Walden Pond, site improvements, pruning and plantings within Land Under Water Bodies and Waterways and within the 100-foot Buffer Zone to Bank of Walden Pond, **DEP File #137-972**. The hearing was continued to July 16, 2008.

WARE / NOI – 201 Independence Road and 525 Rear Lexington Road – Constructing two residential dwellings with associated driveway and utilities, all within the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-974**

Jamie Bemis noted that she is on the board of the Sudbury Valley Trustees (SVT), an organization that owns a parcel of land one parcel removed from abutting the subject property. Ms. Bemis stated that she had no financial interest in the matter. No opposition was noted.

Rich Harrington of Stamski and McNary appeared with the applicant, Paul Ware and, Michael Kenney, builder. Rich Harrington presented the project to the Commission. Four Concept Plans were prepared and presented. Concept Plan 4, the preferred alternative, is a Planned Residential Development (PRD) that would require a Special Permit. Two affordable housing units are proposed under this concept. There would be 37% open space around Gowing Swamp (25% is required). The two closest buildings are proposed greater than 50 feet from wetlands. Much of

the existing trail network would be maintained. Seven buildings will be clustered together to minimize pavement. A long-term Operating & Maintenance Plan would become a part of the condominium documents and implemented through the condominium association.

The GIS system identifies three vernal pools on or near the site. Charles Katuska, PWS, the Commission's wetlands consultant for this project, gave his review and comments to the Commission. Mr. Katuska referenced some of the wetlands flags and noted that WF #23, WF #24 and WF #25 not evident and needed to be replaced. Portions of the project are close to the 50-foot setback. Mr. Katuska suggested that a separate Pollution Prevention Program be established which will carry on after a Certificate of Compliance was issued. This project is also subject to an EPA NPDES Pollution Prevention Plan.

A Commission site visit was scheduled for June 27, 2008 at 9:00 a.m.

Harry Hemond, Ph. D., P.E. of MIT's Department of Civil and Environmental Engineering, presented observations on Gowing Swamp at the request of The Friends and Neighbors of Gowings Swamp. Mr. Hemond prepared a thesis in 1977 titled "Biogeochemistry of a New England Sphagnum Bog" while employed as an Environmental Engineer at MIT. Mr. Hemond discussed the important points relative to Gowing Swamp. It is of educational value, ecological value, and historical value. Gowing Swamp is an ombrotrophic system, meaning that all its water input is from precipitation; none is from groundwater, which flows outward from this system. These hydrologic characteristics drive its unusual, acid-loving plant community that are found more frequently in northern climes, but are very unusual in this region.

Cherrie Corey, the first education director of the New England Wild Flower Society and former executive director of Harvard's Museum of Cultural and Natural History, made a presentation to the Commission at the request of The Friends and Neighbors of Gowings Swamp. Ms. Corey is the author of "Bog and Soul: A Concord Experience". Ms. Corey stated that Gowing Swamp is an important historical site from an ecological and archeological standpoint. Gowing Swamp may represent the last black spruce stand in Concord.

This matter was continued to July 16, 2008.

BORKOWSKI / RDA #08-07 – 477 Strawberry Hill Road – Relocation of building sewer, septic tank, leach field and well serving existing single-family dwelling within the 100-foot Buffer Zone to Bordering Vegetated Wetland.

David Haslett of Stamski and McNary appeared on behalf of the applicant. Mr. Haslett submitted additional information at this evening's hearing consisting of the Well Drilling Plan and Invasives Management Plan.

Jamie Bemis moved to issue a Positive 2(b) and Negative 3 Determination with Special Conditions. Steve Verrill seconded. All so voted.

BRUCE / NOI – 369 Lindsey Pond Road – Constructing an attached garage and in-law suite addition, installing a new septic tank, removing and realigning a portion of the driveway, and

landscaping in the 100-foot Buffer Zone to Bordering Vegetated Wetland, **DEP File #137-978**. At the request of the Applicant, this hearing was continued to July 16, 2008.

SAUX / NOI – 1797 Main Street – Constructing a new driveway and eliminating the existing driveway within the 200-foot Riverfront Area of a stream tributary to the Assabet River, DEP File #137-976

The Applicant, Kelly Saux, appeared before the Commission. Mr. Saux stated that since he filed his application, he learned of an active leaching field in his front yard. This is not expected to affect the proposed project.

The hearing was continued to July 16, 2008 at which time the Commission expects to close the hearing and issue an Order of Conditions.

MORITZ / RDA #08-08 – 78 Southfield Road – Constructing an addition to an existing single-family structure, removal of two sheds and tree removal, within the 100-foot Buffer Zone to Bordering Vegetated Wetland.

Janice Moritz, Applicant appeared before the Commission. The Commission requested that the applicant place all the information on one plan showing more detail and including a more detailed narrative. A Determination of Applicability will be issued primarily for work within the outer Buffer Zone: removing one stump and one shed, constructing the addition, and regarding the divots in the back yard. Additional work will require more detailed information on species of trees and shrubs to be removed, methods for removal, and proposed replantings.

Jamie Bemis moved to issue a Negative Determination #3 with Special Conditions that no work is permitted beyond the 50-foot erosion control line, with the exception of divot backfilling approximately 45 feet from wetlands. George Lewis seconded. All so voted.

TOCIO / NOI – 506 Old Bedford Road – Constructing nine single-family residential units, a sewage disposal system, stormwater management structure, and landscaping, portions of which are in the 100-foot Buffer Zone to Bordering Vegetated Wetland, DEP File #137-977. At the request of the Applicant, this hearing was continued to July 16, 2008.

TOWN OF CONCORD-CPW / NOI – 1.2 mile section of Route 62-Main Street – Repaving, installing stormwater structures, and constructing a headwall and sidewalk, portions of which are in the 200-foot Riverfront Area of the Assabet River and the 100-foot Buffer Zone to Bordering Vegetated Wetland, DEP File #137-975

William Renault of Concord Public Works attended the hearing with Bill Mertz of Stantec Consulting. A new asphalt sidewalk is proposed. A 2-foot grass buffer between the roadway and the new sidewalk is proposed. An area by the Assabet River was raised by the Commission as

the Commission as a concern for drainage, and curbing drainage which will exacerbate the problem. CPW and Stantec will submit another alternative for review.

At the request of the Applicant, this hearing was continued to July 16, 2008.

REQUEST TO AMEND:

BEMIS – 21 Liberty Street, DEP File #137-943

Jamie Bemis recused herself. John Bemis, Applicant, stated that the amended plan includes a grated inlet to allow cleanout before debris enters the Town drainage system. Concord Public Works has reviewed and approved the revised plan.

George Lewis moved to issue an Amended Order of Conditions with a Special Conditions. Steve Verrill seconded. George Lewis, Steve Verrill, and Alexander Easterday so voted. Jamie Bemis abstained.

ESTABROOK ROAD NOMINEE TRUST – 55 Estabrook Road, DEP File #137-925 And ESTABROOK ROAD NOMINEE TRUST – 55 Estabrook Road, DEP File #137-951

Jeff Johnson and Tim Santos of Holmes & Mcgrath appeared with Attorney Gregor McGregor of McGregor & Associates, David Newton of C.H. Newton Builders, Ted Dierker of Oslund and Associates and E.A. Wells, Wetland Scientist. Jeff Johnson noted that two Orders of Conditions have been approved and one an Amendment granted by the Commission. Other amendments have been approved administratively.

Portions of the previously approved perimeter wall are no longer proposed. The wetland replication area, mitigation for the proposed wall is also no longer proposed. The old wall has been removed on the north side of the stream. The proposed access is not being used. Significant changes have been made as follows: a complete relocation of the driveway; a change of the perimeter wall at the driveway proposed which would continue the wall along the street line; installation of a single swale in the same location as the previous two to accommodate the new driveway; a proposed tree, which in fact has already been planted off the patio; connection of the side of the wall with the parking court; and temporary modification to the leaching system. Jim Smith, the on-site supervisor obtained approval from Division of Natural Resources staff to install the temporary pipe. Eight trees have been added to the court area.

A Commission site visit was scheduled for Thursday, June 26, 2008 at 3:00 p.m.

Mike and Mary Fox, 13 Estabrook Road questioned the applicant's use of the access road to plant trees, and whether this was used as a construction access.

This hearing was continued to July 16, 2008.

CLOSE HEARING/ISSUE PERMITS:

THE FENN SCHOOL (ORAD) – 516 Monument Street, DEP File #137-973

Jamie Bemis moved to close the hearing. Steve Verrill seconded. All so voted. Jamie Bemis moved to issue an Order of Resource Area Delineation. George Lewis seconded. All so voted.

CERTIFICATES OF COMPLIANCE:

MIDDLESEX SCHOOL (East Repaving) – 1400 Lowell Road, DEP File #137-941

Jamie Bemis moved to issuance a Certificate of Compliance. Steve Verrill seconded. All so voted.

MILLER (formerly Tolliver) – 286 Barrett's Mill Road, DEP File #137-846

Jamie Bemis moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

MIDON – 33 Spencer Brook Road, DEP File #137-551

George Lewis moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

MIDON – 33 Spencer Brook Road, DEP File #137-658

George Lewis moved to issue a Certificate of Compliance. Steve Verrill seconded. All so voted.

The Commission discussed the possibility issuing future Certificates of Compliance under a Consent Agenda.

OTHER BUSINESS:

Confirmation of Evidential Review

335 Walden Street

Van der Wamsen – Violation Update

Folk – Violation Update

Design & Build Associates (Bedrosian) - 381 Thoreau Street

Marabello's/Boston Bark

Proposed Wetland Bylaw

This meeting adjourned at 11:50 p.m.

Respectfully submitted,

Delia R. J. Kaye, Natural Resources Administrator

Cynthia L. Gray, Natural Resources Administrative Assistant